

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Michael Angel White,)	C/A No. 1:10-1456-JFA-SVH
)	
Petitioner,)	
v.)	ORDER
)	
Warden of Lee Correctional Institution,)	
)	
Respondent.)	
_____)	

The *pro se* petitioner, Michael Angel White, is an inmate with the South Carolina Department of Corrections. He has filed this petition under 28 U.S.C. § 2254 challenging his state court convictions for armed robbery, kidnaping, and assault and battery with intent to kill.

The Magistrate Judge assigned to this action¹ has prepared a comprehensive Report and Recommendation wherein she suggests that the court should grant the respondent's motion for summary judgment as the petition is untimely.² The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

² An order was issued pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975) notifying petitioner of the summary dismissal procedure and possible consequences if he failed to adequately respond to the motion for summary judgment. Petitioner responded to the motion.

The petitioner was advised of his right to file objections to the Report and Recommendation which was filed on July 22, 2011. However, the petitioner has failed to file objections and the time within which to do so has expired. In the absence of specific objections to the Report of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

As the Magistrate Judge properly opines, the petitioner's statute of limitations to file a habeas action ended on March 31, 2010. Therefore, the present petition, filed June 3, 2010, is untimely. 28 U.S.C. § 2244(d)(1)(A).

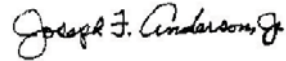
After carefully reviewing the applicable law, the record in this case, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law. The court, therefore, adopts the recommendation of the Magistrate Judge in full and incorporates this Report by specific reference.

Accordingly, the respondent's motion for summary judgment (ECF No. 30) is granted and this action is dismissed with prejudice.

It is further ordered that a certificate of appealability is denied because the petitioner has failed to make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).³

³ A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (West 2009). A prisoner satisfies this standard by demonstrating that reasonable jurists would find both that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. *See Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683 (4th Cir. 2001) (continued...)

IT IS SO ORDERED.



Joseph F. Anderson, Jr.
United States District Judge

August 16, 2011
Columbia, South Carolina

³(...continued)

Cir.2001). In the instant matter, the court finds that the Petitioner has failed to make “a substantial showing of the denial of a constitutional right.”